



Appeal Decision

Site visit made on 20 January 2020

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2020

Appeal Ref: APP/V1260/W/19/3239487

5 Castlemain Avenue, Bournemouth BH6 5EH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Paul Bloomfield, Ashdrew Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2019-27413, dated 8 April 2019, was refused by notice dated 13 September 2019.
 - The development proposed is demolish existing building and replace with a new development of 10no flats.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 19 March 2020.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application subject of this appeal was submitted in outline with the matter of landscaping reserved. I have therefore determined the appeal on this basis.
3. Since the determination of the application subject of this appeal, there has been a change in the Development Plan with adoption of the Boscombe and Pokesdown Neighbourhood Plan 2019 (NP). I have determined this appeal in accordance with national and local policies as adopted at the present time.
4. The Council have confirmed that they no longer wish to maintain an objection to the development with regard to adequacy of on-site parking provision and associated highway safety impact, as set out in the reason for refusal on the decision notice, subject to a condition requiring spaces to be unallocated. From the information before me, I have no reason to take a different position and I have determined the appeal on this basis.

Main Issues

5. The main issues are the effect of the proposed development on
 - i) the character and appearance of the area including the loss of a non-designated heritage asset (NDHA);

- ii) living conditions of occupiers of neighbouring residential properties by reason of outlook, privacy and noise;
- iii) living conditions of future occupiers of the appeal development by reason of outlook and adequacy of outdoor amenity space;
- iv) whether or not adequate arrangements would be made for the disposal of surface water on the site; and
- v) the ecology of the nearby Dorset Heathlands Special Protection Area (SPA), Site of Special Scientific Interest (SSSI), Ramsar Site and Dorset Heathlands Special Area of Conservation (SAC).

Reasons

Character and appearance

6. The house on the appeal site is a two storey detached dwelling in an arts and craft style, with a number of distinctive design features including Dutch Styled gables to the front of two storey bays. The street scene includes a variety in building form and size including the adjacent chalet style bungalow at 5a Castlemain Avenue, large detached properties and two storey flatted blocks. Generally the area maintains a feeling of spaciousness in part owing to the mature landscaping, including that within rear gardens, that gives the area a pleasant and verdant character.
7. The appeal development would introduce a building with accommodation split across three floors including that within the roof. In terms of its general massing and design this would be similar to other flatted developments within the vicinity of the site, particularly when viewed from the front elevation.
8. Clear views of the rear element of the appeal proposal would however be possible across the car park serving 3 Castlemain Avenue. The appeal development would extend significantly further towards the rear than the existing dwelling at the site. Whilst this would be commensurate in terms of projection to that at No 5a, the resultant mass would be considerably larger and more discernible from the street scene. I also acknowledge the depth of the flatted development to the north, however this is anomalous and not typical of the character of much of the wider area.
9. Although the expanse of flat roof of the appeal development may not be readily apparent, it indicates the extent and scale of the proposed development whilst the narrowing of the building to the rear does not offer significant visual relief. Whilst I acknowledge that there are other significant buildings in the area, the proposed building would introduce a substantial and prominent building so that, on balance, I consider that it would represent a visually intrusive and excessive form of development.
10. Owing to the quantum of development, the proposal would also result in the introduction of a significant parking area and alteration to the levels to the rear of the site. The rear of the site has a generally secluded, domestic character that is readily discernible from neighbouring properties. To my mind the introduction of a parking and turning area of the size proposed and the associated intensity of use and alterations in ground level, would have a significant and harmful impact on the character within the rear of the host perimeter block to the detriment of its generally peaceful character.

11. I acknowledge the presence of other similar situations on Castlemain Avenue where parking areas have been introduced to the rear of properties, although I am not fully familiar with the particular circumstances of each case. However, in any event, I have determined the appeal on its individual planning merits and within its particular context, and reference to other developments does not alter my findings that the proposal would be detrimental to the character of the surrounding area.
12. It has been brought to my attention that since the determination of the planning application subject of this appeal, that a prior notification application for the demolition of the existing dwelling at the appeal site has been approved by the Council. Although I acknowledge that the building may have some value as a NDHA, owing to prior approval being granted for its demolition, there is a greater than theoretical possibility that the demolition of the building may take place even if I were to dismiss the appeal. As such when considering any impact resulting from the loss of the building itself, I attach significant weight to this fallback position and decreased weight to any conflict with Policy CS40 of the adopted Bournemouth Local Plan: Core Strategy 2012 (CS) and Policy BAP1 of the NP that favour the retention of local heritage assets.
13. However, for the above reasons, I conclude that the proposed development would harm the character and appearance of the area. As such, it would be contrary to Policies CS21 and CS41 of the CS that seek respectively, amongst other things, good design and that the scale and character and appearance of development respects the site and its surroundings. The proposal would also fail to accord with Policy 6.10 of the Bournemouth District Wide Local Plan 2002 (LP) that states that flats will be permitted in built up areas where, amongst other things, development respects or enhances the character and appearance of the area. The proposal would also fail to accord with the design requirements of Chapter 12 of the National Planning Policy Framework (the Framework) and advice contained within the Residential Development: A Design Guide 2008 Supplementary Planning Guidance (SPG).

Living conditions of neighbouring occupiers

14. I acknowledge that the properties to the side and rear of the appeal development fronting onto Beaufort Road and Oxford Avenue would be significantly separated from the proposed building itself. However, the appeal development would result in a significant parking area and associated alterations to levels. Owing to the position of the spaces, relative levels and the quantum of development, the proposal would result in the parking of vehicles and associated movements immediately adjacent to, and along the majority of the width of the appeal site adjacent to boundaries with Nos 6, 8 and 10 Beaufort Road and of 34 Oxford Avenue. Furthermore, owing to the position of the access road, the proposal would result in a significant number of vehicular movements immediately adjacent to, and along the full depth of, the rear garden serving No 5a Castlemain Avenue. Given this it would be difficult for users of these gardens to avoid noise and disturbance arising from the traffic movements that would be introduced. Additionally, the parking and turning areas would also result in additional noise and disturbance including from manoeuvring vehicles and slamming doors from people entering and leaving vehicles, owing to their position to the rear of neighbouring properties.

15. I consider this would significantly impact upon the living conditions of occupiers of the identified properties by virtue of noise and disturbance. The appellant contends that such impact could be minimised through the use of a noise attenuating fence adjacent to the boundary with No 5a. However, no technical evidence has been submitted to demonstrate the effectiveness of such a barrier and as such I am not persuaded that this would adequately mitigate all likely forms of disturbance including that from manoeuvring vehicles.
16. It has been brought to my attention that there are other similar parking arrangements within the vicinity of the site including those at other flatted developments on Castlemain Avenue. Although I acknowledge that this may be the case, this does not, to my mind, justify allowing a proposal that would not adequately safeguard living conditions of occupiers of neighbouring properties.
17. Furthermore, the appeal proposal would introduce a number of windows serving bedrooms within the south-west elevation fronting towards the flatted development at 3 Castlemain Avenue and properties on Oxford Avenue, including No 32. The parties indicate that these windows would be separated by approximately 21 to 23 metres from neighbouring buildings. Having regard to the guidance contained within the Residential Design Guide SPG, the proposal would comply with the separation distance of 21 metres between parallel buildings where living room windows are not on the upper floors. However, although some degree of loss of privacy may not be unusual in residential areas, these openings would be in close proximity with the boundary of the site and the garden serving No 32 and would to my mind, result in an increased loss of privacy detrimental to the enjoyment of this area by occupiers of this property.
18. For the above reasons, I conclude that the proposal would not accord with Policy 6.10 of the LP which seeks, amongst other things, that flatted development respects the living conditions of the occupiers of buildings in the vicinity. It would also conflict with Policies CS21 and CS41 of the CS that seek amongst other things, that development respects residents' amenities. The proposal would also fail to accord with the living conditions aims of the Framework, including those within chapter 15 and the advice contained within the Residential Design Guide SPG.

Living conditions of future occupiers

19. I acknowledge that at the time of determination of the planning application that the development plan policies cited did not include explicit reference to the provision of adequate amenity space. However, Policy BAP7 of the now adopted NP explicitly requires the provision of adequate amenity space. Although I acknowledge the absence of a particular standard for the amount to be provided, from the details before me, the amenity space to the rear would be limited in its extent and predominantly situated adjacent to the parking and turning area and windows of ground floor units. Although an area of garden is proposed to the front of the property, this space would be open to view from the adjacent public highway and footpath, and subject to a lack of privacy.
20. Noting the above, I find that the proposed usable outside amenity space would be of diminished size and practical use for occupiers of the appeal proposal and likely to be subject of significant levels of noise and disturbance, that would not be adequately mitigated by indicative landscaping. Although further details of landscaping would be required with a subsequent reserved matters application

or condition, I am not persuaded that the proposal would provide future occupiers of the appeal development with an adequate or satisfactory form of outdoor amenity space.

21. I acknowledge the appellants contention that other flatted developments in the area do not provide separation between buildings and parking areas through provision of amenity space. However, these points do not justify allowing a proposal that would not adequately safeguard living conditions of future occupiers.
22. The proposed provision of rooflights in the second-floor flats may afford a degree of light to the bedrooms. However, on the evidence before me I am not persuaded that such an arrangement would offer future occupiers of the dwellings with anything other than a very limited outlook from these areas. I cannot be satisfied therefore that these areas would not be oppressive and unwelcoming spaces. As such, I consider that the development proposed under the appeal would not be conducive to a good standard of living accommodation for future occupiers of the dwellings.
23. I acknowledge that both parties reference the size of the proposed flats with regard to Government Technical Housing Standards, with the Council indicating a slight shortfall for some of the proposed units. This is not debated by the appellant. I note that these standards were not formally adopted by the Council at the time of determination. However, Policy BAP7 of the subsequently adopted NP encourages new build development to comply with these requirements. Although there may be a modest shortfall and conflict with Policy BAP7, from the information before me, any such shortfall in size would not result in internal living space that would provide for unacceptable living conditions for future occupiers.
24. My attention has also been brought to a recent appeal decision where an Inspector considered matters relating to provision of garden space and housing standards. However, this decision predates the adoption of the NP and as such there has been a substantive change in the development plan. Whilst some detail has been provided by the appellant, I am not familiar with the site specifics of this particular case or their relationship to the site. In any event, I have determined the appeal on its individual planning merits.
25. For the above reasons, I conclude that the proposal would harm the living conditions of future occupiers with reference to outlook and provision of private amenity space. As such the proposal would not accord with the living conditions aims of Policies CS21 and CS41 of the CS that seek, amongst other things, that new development should enhance the amenities of future occupants and provide a high standard of amenity to meet their day to day requirements. It would also be at odds with Policy BAP7 of the NP that seeks amongst other things the provision of adequate amenity space and Chapter 12 of the Framework, including paragraph 127 (f) that seeks a high standard of amenity for existing and future users and the guidance contained within the Residential Design Guide SPG.

Drainage

26. The submitted plans provide indicative detail of drainage arrangements although concern is raised by the Council regarding a lack of information to

demonstrate that surface water could be adequately dealt with within the confines of the site.

27. The appeal development would significantly alter the characteristics of the site including alteration of levels and additional hardstanding to the rear. Although some detail has been provided in support of the proposal, in the absence of technical evidence, I am not persuaded that it has been adequately demonstrated that necessary drainage facilities for the appeal development, could be provided within the confines of the site. I am also not satisfied that this matter can be adequately dealt with by condition.
28. In the absence of further details that the appeal proposal would, at least in principle, be able to cater for surface water drainage, I cannot conclude that in this regard the development would accord with Policy CS4 of the CS. This policy seeks that the design and layout of all new buildings, and the development of car parking and hardstanding, will incorporate drainage facilities capable of ensuring the level of surface water leaving the site is no greater than that prior to development.

Special Protection Area, SSSI, Ramsar and Special Area of Conservation

29. The site lies between 400 metres and 5 kilometres of the designated Dorset Heathlands SPA, Ramsar Site and Dorset Heaths SAC. Cumulatively with other development in the area, the appeal development would be likely to have a significant effect on these sites, and without mitigation it could have an adverse effect on their integrity.
30. Policy CS33 of the CS states that development will only be permitted where it will have no adverse effect on the heathlands. The Dorset Heathlands Planning Framework 2015-2020 Supplementary Planning Document (SPD) sets out the Council's approach to the mitigation of such harmful effects. This sets out that all new residential development between 400 metres to 5km of the protected heathlands is subject to a financial contribution towards mitigation measures in order to avoid adverse effects on the integrity of the sites. The Council's statement notes that a signed legal agreement would remove their objection to the development in this regard.
31. The appellants have now provided a completed unilateral undertaking (UU) which would provide a contribution to the Dorset Heathlands Strategic Access Management and Monitoring (SAMM). I am satisfied that this would provide the necessary mitigation to the habitats sites if the appeal was allowed and consequently in this regard there would be no conflict with CS33 or paras 175 and 176 of the Framework.
32. However, as I have found harm in relation to other main issues there is no need for me to consider this further.

Planning Balance

33. The Council indicates that it cannot demonstrate a 5-year housing land supply, whilst I acknowledge that the Housing Delivery Test results have recently been published, that indicate a change in the housing land supply buffer may be required.
34. For the reasons detailed above, I have found that the development would be harmful with regard to the character and appearance of the area and living

conditions of occupiers of neighbouring dwellings and future occupiers of the appeal development. It has also not been adequately demonstrated that the proposal would adequately cater for surface water drainage. Even if the supply of housing land falls below 5 years and the tilted balance by virtue of footnote 7 of paragraph 11 of the Framework was applicable to this proposal, the determinative policies referred to with regard to these main issues are consistent with the Framework and as such are not out of date. It follows that the policy conflict I have identified carries full weight.

35. There would be nine additional residential units, with associated social and economic benefits, that would make a minor contribution to local housing supply of a type of identified need within the NP. However, to my mind, such limited benefit would be outweighed by the harm I have identified above.
36. When assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development.

Conclusion

37. For all the reasons given above, the appeal is dismissed.

Robert Lankshear

INSPECTOR